

Remarks/Arguments

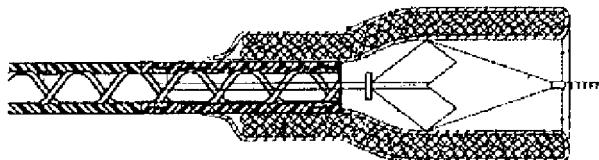
Applicants have received and carefully reviewed the Office Action of the Examiner mailed April 14, 2008. Currently, claims 1-44 remain pending. Claims 1-44 have been rejected. Favorable consideration of the following remarks is respectfully requested.

Claim Rejections – 35 USC § 103

Claims 1, 8-10, and 12-15 were rejected under 35 U.S.C. 103(a) as being unpatentable over Chien et al. (U.S. Patent No. 6,165,163), hereinafter Chien, in view of Sarge et al. (U.S. Patent No. 6,508,804), hereinafter Sarge. After careful review, Applicant must respectfully traverse this rejection.

“All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). (MPEP § 2143.03). Nowhere does Chien appear to disclose a “coil assembly [[is]] disposed about at least a portion of the distal end of the shaft”. Instead Chien appears to describe a shaft possibly suitable for use with the coil assembly of the pending invention. The coil assembly is differentiated from the shaft by the language of the claims and provides a separate and distinct function, that of a distal delivery/retrieval sheath. The fluid delivery, braid reinforced shaft of Chien does not appear to have a coil assembly disposed about the shaft, but rather only within the shaft itself. Additionally, nowhere does Sarge appear to remedy the shortcomings of Chien. Sarge has been cited to provide alternative structure for the shaft of Chien and does not appear to overcome the deficiencies of the Chien reference with respect to a distal coil assembly disposed about the distal end of the shaft. Neither reference appears to contemplate any structure disposed about the distal portions of their respective shafts and neither appears to contemplate the delivery of a filter. The structure of the shaft is irrelevant to the pending invention so long as it is capable of delivering the coil assembly, and any contents within the coil assembly, to an appropriate site within the body. The shaft about which the coil assembly is disposed is adequately described within the pending application as “Shaft 20

can be formed from, for example, a polymeric material such as polypropylene (PP), polyvinylchloride (PVC), polytetrafluoroethylene (PTFE), polyether block amide (PEBA) or other suitable material.” (See paragraph [0009].) The shaft 20 is an element distinct from the first coil 22 and the second coil 24 of the coil assembly. Were one to have provided the coil assembly of the pending claims disposed about the distal portion of the shaft of Chien as apparently proposed by the Examiner, one would apparently have needed to provide at least four layers of coils (the single two-component braid layer of the shaft of Chien, described by the Examiner as two layers, and the two layers of the coil assembly) resulting in a composite structure something like this:



This four layer distal structure does not appear in Chien or Sarge and does not appear to be disclosed or suggested in the text of either reference. Indeed, neither Chien nor Sarge appears to contemplate disposing additional structure of any sort about the distal ends of their shafts. Therefore, Chien in view of Sarge does not appear to teach all the claim limitations, as is required to establish a *prima facie* case of obviousness. Accordingly, Applicants respectfully request that the rejection of independent claim 1 be withdrawn.

If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). (MPEP 2143.03) Accordingly, Applicants respectfully request that the rejections of claims 2-15 be withdrawn as well.

Claims 2-7 were rejected under 35 U.S.C. 103(a) as being unpatentable over Chien et al. (U.S. Patent No. 6,165,163) in view of Sarge et al. (U.S. Patent No. 6,508,804) and further in view of De Mello et al. (U.S. Patent No. 5,429,597), herein after DeMello. After careful review, Applicant must respectfully traverse this rejection.

As discussed in an earlier Office Action, DeMello appears to add nothing to the

Chien and Sarge references in that it appears to describe yet another a shaft about which the coil assembly of the pending application might be deployed without disclosing the coil assembly itself, or even an analogous sheath structure. Accordingly, Applicants respectfully request that the rejections of claims 2-15, which depend from nonobvious claim 1, be withdrawn as well.

Claim 11 was rejected under 35 U.S.C. 103(a) as being unpatentable over Chien et al. (U.S. Patent No. 6,165,163) in view of Sarge et al. (U.S. Patent No. 6,508,804) and further in view of Samson et al. (U.S. Patent No. 6,143,013), herein after Samson. After careful review, Applicant must respectfully traverse this rejection.

As in the discussion above, Samson appears to describe a variety of reinforced shaft structures, which, like those of Chien, Sarge, and DeMallo might be suitable as a shaft about whose distal end the coil assembly of the pending application might be deployed, without disclosing the coil assembly itself. Accordingly, Applicants respectfully request that the rejections of claim 11, which depends from nonobvious claim 1, be withdrawn as well.

Claims 16, 23-25, 27-31, 38-40, and 42-44 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ginsburg (U.S. Patent No. 4,873,978), in view of Chien et al. (U.S. Patent No. 6,165,163) and Sarge et al. (U.S. Patent No. 6,508,804). After careful review, Applicant must respectfully traverse this rejection.

As in the earlier discussion of Chien and Sarge, taken alone or together, the shaft of Ginsburg does not appear to contemplate a structure of any kind, including the single turn reinforcement ring 28, which might anticipate either the function or structure of the “a coil assembly including a first coil and a second coil, the first coil defining a lumen and being wound in a first direction, the second coil being wound in a second direction and disposed about an outer surface of the first coil; wherein the coil assembly is disposed about at least a portion of the distal end of the shaft.” (Emphasis added.) Note that as in claim 1, independent claims 16 and 31 contemplate a two coil layered, not braided, element as an entity separate from, but attached to, the distal end of a shaft and disposed about it, said additional two coil element clearly absent from Ginsburg, Chien,

Sarge, and combinations thereof. The Examiner has acknowledged that “Ginsburg is silent with regards to the elongate shaft and its distal end comprising a coil assembly.” There appears to be nothing in Ginsburg, Chien, Sarge, and combinations thereof, which provides a coil assembly, including a first coil and a second coil, disposed about at least a portion of the distal end of the shaft since the coils of the references appear to be components of the respective shafts and not a coil assembly disposed thereabout. Instead, the references, alone or together, appear to disclose only a variety of shafts which might serve as a shaft about the distal end of which the coil assembly of the pending invention might be disposed. Accordingly, Applicants respectfully request that the rejection of independent claims 16 and 31 be withdrawn.

If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious and Applicants respectfully request that the rejections of claims 23-25, 27-30, 38-40, and 42-48, which depend from independent claims 16 and 31 respectively, be withdrawn as well.

Claims 17-22 and 32-37 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ginsburg (U.S. Patent No. 4,873,978), in view of Chien et al. (U.S. Patent No. 6,165,163) and Sarge et al. (U.S. Patent No. 6,508,804). After careful review, Applicant must respectfully traverse this rejection.

As in the earlier discussion of Ginsburg, Chien, and Sarge, taken alone or together, the references cited appear to disclose only a variety of shafts which might serve as a shaft about the distal end of which the coil assembly of the pending invention might be disposed. Claims 17-22 and 32-37 depend from nonobvious independent claims 16 and 31. If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious and Applicants respectfully request that the rejections of claims 17-22 and 32-37, which depend from independent claims 16 and 31 respectively, be withdrawn as well.

Claims 26 and 41 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ginsburg (U.S. Patent No. 4,873,978), in view of Chien et al. (U.S. Patent No.

6,165,163) and Sarge et al. (U.S. Patent No. 6,508,804) and in further view of Samson et al. (U.S. Patent No. 6,143,013). After careful review, Applicant must respectfully traverse this rejection.

As in the earlier discussion of Ginsburg, Chien, and Sarge, taken alone or together, the references cited appear to disclose only a variety of shafts which might serve as a shaft about the distal end of which the coil assembly of the pending invention might be disposed. Claims 26 and 41 depend from nonobvious independent claims 16 and 31. If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious and Applicants respectfully request that the rejections of claims 26 and 41, which depend from independent claims 16 and 31 respectively, be withdrawn as well.

In view of the foregoing, all pending claims are believed to be in a condition for allowance. Reexamination and reconsideration are respectfully requested. Issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

Date: May 19, 2008



Glenn M. Seager, Reg. No. 36,926
CROMPTON, SEAGER & TUFTE, LLC
1221 Nicollet Avenue, Suite 800
Minneapolis, Minnesota 55403-2420
Tel: (612) 677-9050